

(6) (6) (6)  
Nos. 86-495, 86-624 and 86-625

Supreme Court, U.S.  
FILED

FEB 20 1987

JOSEPH F. SPANIOLO, JR.  
CLERK

IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1986

K MART CORPORATION,  
v. *Petitioner,*  
CARTIER, INC., *et al.*

47TH STREET PHOTO, INC.,  
v. *Petitioner,*

COALITION TO PRESERVE THE INTEGRITY OF  
AMERICAN TRADEMARKS, *et al.*

UNITED STATES OF AMERICA, *et al.,*  
v. *Petitioners,*

COALITION TO PRESERVE THE INTEGRITY OF  
AMERICAN TRADEMARKS, *et al.*

On Writs of Certiorari to the United States Court of Appeals  
for the District of Columbia Circuit

**JOINT APPENDIX**

[List of Counsel Appears on the Inside Cover]

PETITION FOR CERTIORARI IN NO. 86-495  
FILED SEPTEMBER 26, 1986

PETITIONS FOR CERTIORARI IN NOS. 86-624 AND 86-625  
FILED OCTOBER 16, 1986

CERTIORARI GRANTED AND CASES CONSOLIDATED  
DECEMBER 8, 1986

ROBERT W. STEELE \*  
ROBERT E. HEBDA  
Steele, Simmons & Fornaciari  
Suite 850  
2020 K Street, N.W.  
Washington, D.C. 20006-1857  
(202) 887-1779

JAMES C. TUTTLE  
Assistant General Counsel  
Antitrust and International  
K mart Corporation  
International Headquarters  
3100 West Big Beaver Road  
Troy, Michigan 48084  
(313) 643-1688

*Attorneys for Petitioner  
K mart Corporation*

NATHAN LEWIN \*  
JAMIE S. GORELICK  
Miller, Cassidy, Larroca  
& Lewin  
Suite 500  
2555 M Street, N.W.  
Washington, D.C. 20037  
(202) 293-6400

*Attorneys for Petitioner  
47th Street Photo, Inc.*

CHARLES FRIED  
Solicitor General  
Department of Justice  
Washington, D.C. 20530  
(202) 633-2217  
*Attorney for the  
Federal Petitioners*

WILLIAM H. ALLEN \*  
ELIZABETH V. FOOTE  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, D.C. 20044  
(202) 662-6000  
*Attorneys for Respondents*

\* Counsel of Record  
February 21, 1987

## TABLE OF CONTENTS

	Page
Chronological List of Relevant Docket Entries in the United States District Court for the District of Columbia .....	1
Chronological List of Relevant Docket Entries in the United States Court of Appeals for the District of Columbia Circuit .....	11
Articles 475-80 of the Customs Regulations of 1923, T.D. 40,380 .....	17
Articles 517-22 of the Customs Regulations of 1931.....	21
T.D. 48,537 (1936) .....	27
Articles 536-41 of the Customs Regulations of 1937.....	31
Sections 11.14-11.17 of the Customs Regulations of 1943 .....	39
Sections 11.14-11.17 of the Customs Regulations of 1947 .....	45
Letter from Frank Dow, Commissioner of Customs, to Senator Paul H. Douglas, dated March 23, 1951.....	52
T.D. 53,399 (1953) .....	55
T.D. 54,932 (1959) .....	60
Letter from B.H. Flinn, Deputy Commissioner of Cus- toms, to Walter A. Slowinski, Esq., dated July 2, 1962 .....	62
Letter from B.H. Flinn, Deputy Commissioner of Cus- toms, to Selig J. Levitan, Esq., dated March 15, 1963..	63
T.D. 69-12(2) (1968) .....	65
19 C.F.R. § 11.14 (1969) .....	66
Letter from Walker B. Comegys, Acting Assistant At- torney General, Antitrust Division, to Myles J. Am- brose, Commissioner of Customs, dated April 19, 1971 .....	68

# TABLE OF CONTENTS—Continued

	Page	
Letter from Robert V. McIntyre, Assistant Commissioner of Customs, to H. John Campaign, Esq., dated June 28, 1971 .....		75
Exchange of correspondence between William E. Brock, United States Trade Representative, and the Commissioner of Customs, dated October 5, 1982, and November 3, 1982 .....		77
Letter from Sens. Abdnor, Bradley, Hatch, DeConcini, D'Amato, Moynihan, and Laxalt, dated November 7, 1983, and response of Honorable Donald T. Regan, dated December 23, 1983 .....		82
Orders granting petitions for a writ of certiorari and consolidating cases, filed December 8, 1986 .....		86
NOTE: The following opinions, decisions, judgments and orders have been omitted in printing this Joint Appendix because they appear on the following pages in the appendices to the Petitions for Certiorari filed by K mart Corporation on September 26, 1986, and by the Federal Petitioners on October 16, 1986:		
	Page of K mart Petition in No. 86-495	Page of Federal Petition in No. 86-625
Memorandum Opinion of the United States District Court for the District of Columbia, filed December 5, 1984 .....	38a	34a
Order of the United States District Court for the District of Columbia, filed December 5, 1984 .....	—	49a
Opinion of the United States Court of Appeals for the District of Columbia Circuit, filed May 6, 1986 .....	1a	1a

## TABLE OF CONTENTS—Continued

	Page of K mart Petition in No. 86-495	Page of Federal Petition in No. 86-625
Judgment of the United States Court of Appeals for the District of Colum- bia Circuit, filed May 6, 1986 .....	—	51a
Order on issuance of mandate, filed May 6, 1986 .....	34a	33a
Order on petitions for rehearing, filed July 18, 1986 .....	35a	53a
Order on suggestions for rehearing <i>en</i> <i>banc</i> , filed July 18, 1986 .....	36a	54a
Order on stay of mandate, filed August 6, 1986 .....	37a	—



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

No. 84-0390

COALITION TO PRESERVE THE INTEGRITY OF  
AMERICAN TRADEMARKS, *et al.*,  
v. *Plaintiffs,*  
UNITED STATES OF AMERICA, *et al.*,  
*Defendants.*

---

DOCKET ENTRIES

---

DATE	NR.	PROCEEDINGS
1984		
Feb 6	1	COMPLAINT; appearance. (mj)
Feb 6		SUMMONS (4) issued. (mj)
Feb 8	2	AFFIDAVIT OF SERVICE upon the U.S. Attorney on 2-7-84. (ml)
Feb 8	3	AFFIDAVIT OF SERVICE upon deft. Regan on 2-7-84. (ml)
Feb 8	4	AFFIDAVIT OF SERVICE upon deft. William Van Raab on 2-7-84. (ml)
Feb 10	5	AFFIDAVIT OF SERVICE upon the U.S. Attorney General by certified mail on 2-8-84; attachment. (ml)
Feb 23	6	AMENDED COMPLAINT by plttfs. (ml)
Mar 20	7	APPEARANCE of David M. Cohen and Velta A. Melnbrencis as counsel for defts. (ml)

DATE	NR.	PROCEEDINGS
1984		
Apr 4	8	MOTION by plttfs. for summary judgment; statement of material facts; memorandum of P&A's; table of contents; table of authorities; statements in support with Exhibits 1-6; Appendices A-U. (ml)
Apr 9	9	ANSWER by defts. to amended complaint. (ml)
Apr 9		CALENDARED C/D (N). (ml)
Apr 10	10	MOTION by K Mart Corporation to intervene as a matter of right pursuant to Rule 24(a) (2) or, alternatively, for permissive intervention pursuant to Rule 24(b); affidavit of James C. Tuttle; memorandum in support; Exhibit A; Exhibit (Answer); \$5.00 fee paid and credited to U.S. Treasury, (Appearance: John F. Bruce, 1730 Pennsylvania Ave., N.W., Washington, D.C. 20006, (202) 783-0800). (ml)
Apr 10	11	MOTION by 47th Street Photo to intervene as a matter of right, or alternatively for permissive intervention; memorandum in support; Attachment A; affidavit of Irving Goldstein; Attachment 1 & 2; Exhibit (Motion; Answer); \$5.00 fee paid and credited to U.S. Treasury; (Appearance: Nathan Lewin; 2555 M St., N.W., Suite 500, Washington, D.C. 20037, (202) 293-6400). (ml)
Apr 11	12	MOTION by defts. for an extension of time within which to file a response to plttfs' motion for summary judgment. (ml)
Apr 16	13	PARTIAL OPPOSITION by plttfs. to motions for extension of time to respond to motion for summary judgment. (ml)



DATE	NR.	PROCEEDINGS
1984		
Apr 17		REASSIGNMENT OF CASE from Judge Si-rica to Judge Gessell. (mj)
Apr 19		REASSIGNMENT of case from Judge Gesell to Judge Johnson. (md)
May 7	14	MOTION by applicants for intervention 47th Street Photo, Inc. for a thirty-day response period to pltffs' motion for summary judgment; memorandum in support. (ml)
May 9	15	OPPOSITION by pltf. to 5-7-84 motion of 47th Street Photo. (ml)
May 10	16	MOTION by applicant for intervention K-Mart Corporation for a thirty-day period to respond to pltffs' motion for summary judgment; memorandum in support. (ml)
May 11	17	OPPOSITION by pltffs. to motion of K Mart for extension of time. (ml)
May 14	18	MOTION of Progress Trading Company, Inc., for leave to file a Brief Amicus Curiae; Memorandum; Exhibit (Brief of Amicus Curiae Progress Trading Company, Inc., in opposition to pltfs' motion for summary judgment). (nb)
May 16	19	ORDER filed 5/14/84 setting status call on 5/18/84 at 10:15 and directing counsel to comply with certain requirements. (N) JOHNSON, J. (mj)
May 16	20	OPPOSITION by defts. to pltf's motion for summary judgment and cross-motion for summary judgment; statement of material facts; collective Exhibit 1 & 2; response to pltf's statement of material facts; Exhibit A; memorandum in support; table of contents; table of authorities; Exhibit A. (ml) "Let this be filed." (fiat) JOHNSON, J. (ml)